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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JESSIE LONG,) Case No. CV 07-00117 DDP (OP)
)
Petitioner,) **ORDER DENYING PETITIONER'S MOTION**
) **TO RECUSE MAGISTRATE JUDGE PARADA**
v.)
) [Motions filed on March 11, 2010
J. PRUETT, et al.,) and Dec. 13 2010]
)
Respondents.)
_____)

This matter comes before the Court on Jessie Long ("Petitioner")'s motions to recuse Magistrate Judge Oswald Parada. Upon reviewing Petitioner's submissions, the Court DENIES the motion and adopts the following order.

A judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned" and in proceedings in which "he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding."¹ 28 U.S.C. § 455(a) & (b)(1). The Ninth Circuit has

¹ Petitioner appears to mistakenly rely on California Code of Civil Procedure § 170.3 rather than 28 U.S.C. § 455. (See, e.g., Dec. 13 Motion at 1.)

1 articulated the standard for disqualification under § 455 as
2 follows:

3 The test under § 455(a) is whether a reasonable person with
4 knowledge of all the facts would conclude that the judge's
5 impartiality might reasonably be questioned. Typically, a
6 judge's partiality must be shown to be based on information
7 from extrajudicial sources, although sometimes, albeit
8 rarely, predispositions developed during the course of a
trial will suffice. In the instance where the partiality
develops during the course of the proceedings, it can be the
basis of recusal only when the judge displays a deep-seated
and unequivocal antagonism that would render fair judgment
impossible.

9 F.J. Hanshaw Enters., Inc. v. Emerald River Dev., Inc., 244 F.3d
10 1128, 1144-45 (9th Cir. 2001) (internal quotations and citations
11 omitted).

12 Petitioner contends that Magistrate Judge Parada exhibited
13 bias in his Report and Recommendation ("R&R"). (Motion to Recuse
14 ("Mot." at 1:17-18.) Petitioner further asserts that Magistrate
15 Judge Parada was not acting within the bounds of the law in
16 granting Defendants' Motion for Judgment on the Pleadings and in
17 dismissing several of Petitioner's claims, without prejudice, for
18 failure to exhaust. (Mot. at 4:3-22.)

19 Petitioner has not established that Magistrate Judge Parada's
20 impartiality could reasonably be called into question - he simply
21 disagrees with the R&R's legal conclusions. Because Petitioner has
22 not shown that Magistrate Judge Parada's decisions in this case
23 reveal a "deep-seated and unequivocal antagonism" toward Petitioner
24 "that would render fair judgment impossible." F.J. Hanshaw
25 Enters., 244 F.3d at 1144-45, the Motion to Recuse is DENIED.

26 IT IS SO ORDERED.

27 Dated: January 18, 2011

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DEAN D. PREGERSON
United States District Judge